

## Campaign

**Laurence S. Zakson**  
**Laborers International Union of**  
**North America, Local 300**  
**Dated July 9, 2002**  
**Our File Number: A-01-195**

**Jeff Koontz, Executive Director**  
**Diamond Bar Chamber of**  
**Commerce**  
**Dated July 17, 2002**  
**Our File Number: I-02-149**

**John A. Ramirez**  
**Lou Lopez for Supervisor**  
**Dated July 26, 2002**  
**Our File Number: A-02-167**

**Mark Anthony Dierolf**  
**Monterey County**  
**Dated July 17, 2002**  
**Our File Number: A-02-175**

**Cynthia A. Trujillo, CMC**  
**City of San Gabriel**  
**Dated July 11, 2002**  
**Our File Number: I-02-177**

**Andrea Leiderman**  
**Friends of Andrea Leiderman**  
**Dated July 25, 2002**  
**Our File Number: A-02-181**

**Gabriel A. Godinez, City Clerk**  
**City of Arvin**  
**Dated July 24, 2002**  
**Our File Number: I-02-186**

**Cheryl I. Butler**  
**Court of Appeal**  
**Dated July 29, 2002**  
**Our File Number: I-02-187**

**Elliott Cohen**  
**City of Berkeley**  
**Dated July 29, 2002**  
**Our File Number: I-02-191**

A labor union which qualifies as a committee is required to report all payments including those made for the purpose of communicating with the organization's members.

A cable television program that is produced by the chamber of commerce and co-hosted by a city council member is neither an independent expenditure nor a contribution. However, the analysis would change if the program contained express advocacy, references to the city council member's candidacy for elective office or the city council member's opponents for elective office or solicited contributions.

Assuming the transfer is lawful under local law, the Act permits campaign funds from an individual's city council committee to be transferred to his supervisorial committee and used to repay a personal loan.

A general purpose ballot measure committee is not prohibited from forming under the Political Reform Act and may be controlled by a candidate or officeholder as long as the committee does not make payments supporting or opposing candidates, including the controlling candidate.

The combination of the semi-annual and first pre-election campaign filing deadlines in connection with the City of San Gabriel's August 27 ballot measure election is discussed.

A local candidate may redesignate an existing committee only for future election to the same office. Surplus campaign funds may not be used for expenses associated with either running for or holding future office.

The combination of the second pre-election and semi-annual campaign statements in connection with the city's August 13 special mayoral election is addressed.

Candidates for appellate court justice are not required to file a statement of economic interests. Successful incumbent candidates must continue to file annually.

If an individual qualifies as a candidate under section 82007, certain statements must be filed.

## Conflict of Interest

**Frederick G. Soley, City Attorney**  
**Vallejo City Council**  
**Dated July 3, 2002**  
**Our File Number: A-01-306**

The members of the council may participate in decisions regarding the residential rental inspection program if their real property interests will not be affected in a manner different from the public generally.

**David R. Hunt**  
**City of Pismo Beach**  
**Dated July 10, 2002**  
**Our File Number: A-02-073**

The concerns of three different public officials regarding participation in the adoption of a specific plan and their possible conflicts of interest are addressed in this letter. Each public official was found to have a disqualifying conflict of interest.

**Kathryn E. Donovan**  
**Office of the Treasurer**  
**Dated May 1, 2002**  
**Our File Number: A-02-078**

With respect to a blind trust established by the State Treasurer, the treasurer may not prescribe in the trust instrument certain categories of assets to which the trustee would be limited in investing the assets of the trust, even with the trustee given complete discretion within the parameters of the various categories, because regulation 18235 provides that the trustee is to have complete discretion in managing the trust. If the filer prescribes the categories of assets in which the trustee may invest, it would infringe on the trustee's discretion, and would begin to erode the separation between the trustee and the public official that is critical to the concept of the blind trust as a vehicle for removing obstacles to investments by public officials. Other issues related to blind trusts are considered and regulation 18235 is construed.

**Diane L. Dillon**  
**Napa County Board of Supervisors**  
**Dated July 16, 2002**  
**Our File Number: I-02-082**

Identification of the economic interests of a public official, including those based on the official's partnership in a law firm is addressed.

**Leslie E. Murad, II**  
**Redlands City Council**  
**Dated July 22, 2002**  
**Our File Number: I-02-100**

A council member is advised that since her ownership interest as a partner in her employer's accounting firm is less than 10 percent, clients of the accounting firm are sources of income to her and are not among her economic interests under the Act. Thus, she may vote on city council decisions concerning clients served by the accounting firm.

**Dawn C. Honeywell**  
**City of Irwindale**  
**Dated July 24, 2002**  
**Our File Number: I-02-101**

The city attorney is advised that conflict-of-interest provisions of the Act do not bar a public official, when acting in a private capacity, from retaining a general contractor who also performs work for the city. Retaining the contractor is not making, participating in making or influencing a governmental decision. Public officials may also apply for benefits under publicly funded housing programs, but may not subsequently make, participate in making or influence any governmental decisions concerning their application. A city council member receiving these benefits may vote on changes to the housing benefits program, provided that the program changes cannot be reasonably foreseen as affecting his or her personal finances by \$250 or more over a 12-month period, unless the "public generally" exception applies.

**Julie Hayward Biggs**  
**City of Goleta**  
**Dated July 10, 2002**  
**Our File Number: A-02-102**

A discussion of regulation 18707.1 and the application of the "public generally" exception, the seventh step of the conflict-of-interest analysis, is addressed. The "public generally" exception would probably apply in this case, where the public official's primary residence will be

<p><b>John E. Brown</b>  <b>City of San Jacinto</b>  <b>Dated July 19, 2002</b>  <b>Our File Number: A-02-103</b></p> <p><b>Victoria Pointer, Mayor Pro Tem</b>  <b>City of Buellton</b>  <b>Dated July 16, 2002</b>  <b>Our File Number: A-02-128</b></p> <p><b>Stephen P. Deitsch, City Attorney</b>  <b>City of Big Bear Lake</b>  <b>Dated July 2, 2002</b>  <b>Our File Number: A-02-129</b></p> <p><b>Daniel S. Hentschke</b>  <b>San Diego County Water Authority</b>  <b>Dated July 26, 2002</b>  <b>Our File Number: A-02-142</b></p> <p><b>Howard Laks, AIA</b>  <b>City of Santa Monica</b>  <b>Dated July 29, 2002</b>  <b>Our File Number: A-02-155</b></p> <p><b>Ron L. Cotten, Treasurer</b>  <b>Macedo for Manteca City Council</b>  <b>Dated July 24, 2002</b>  <b>Our File Number: A-02-157</b></p> <p><b>Marcia H. Armstrong</b>  <b>Siskiyou County Farm Bureau</b>  <b>Dated July 16, 2002</b>  <b>Our File Number: I-02-166</b></p>	<p>affected in substantially the same manner as all those property owners near the site in question. The public official must make this determination, since the Commission does not act as a finder of fact.</p> <p>The “public generally” exception will not apply in a conflict-of-interest decision before the vice mayor because one or more of his economic interests will experience a unique financial effect as a result of the decision.</p> <p>Members on a city council inquire as to their participation in a vote affecting real property beyond 500 feet from their homes. Because it was unclear whether the construction of a street extension would lend itself to a substantial increase in traffic within 500 feet of the two council members’ respective homes, the FPPC could not reach a definitive conclusion whether a conflict of interest exists.</p> <p>Exceptions to the Act’s conflict-of-interest rules are narrowly construed. Regulation 18702.4(b)(1)(C) provides an exception where an official may represent his or her “personal interests” in a business over which the official exercises sole direction and control. The exception is limited to a situation where there are no other personnel of the company that may be delegated the authority to appear before the official’s body.</p> <p>It is reasonably foreseeable that a public official’s economic interests will experience a material financial effect where the economic interest is directly involved in the governmental decision.</p> <p>The second step of the eight-step conflict-of-interest analysis is the focus of this letter. Specifically, the discussion concerns whether a member of an architectural review board, also a private architect, is allowed to present a client’s appeal of an architectural review board decision to the planning commission. The architect is allowed to present to the planning commission so long as: 1) the planning commission is not appointed by or subject to the budgetary control of the public official’s agency, and 2) the public official does not purport to act in an official capacity as an architectural review board member.</p> <p>A general conflicts-of-interest and gift discussion is given. A sale of an improved vacant building site for fair market value is not a gift under the Act even though the seller does not typically engage in this type of sale. However, if the lot was considered to be a gift, then the purchase may affect the public official’s ability to vote on issues concerning the seller. The burden is on the public official to prove that adequate consideration was provided by the official.</p> <p>The conflict-of-interest provisions will not apply until this elected city council member assumes office. At that time, all economic interests including the income from her employer, could be the basis for a conflict of interest.</p>
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<p><b>Gary T. Ragghianti</b>  <b>City of Larkspur</b>  <b>Dated July 10, 2002</b>  <b>Our File Number: A-02-170</b></p> <p><b>Don Ramos</b>  <b>Aptos/La Selva Fire District</b>  <b>Dated July 22, 2002</b>  <b>Our File Number: I-02-173</b></p> <p><b>The Honorable John Campbell</b>  <b>State Assembly</b>  <b>Dated July 17, 2002</b>  <b>Our File Number: I-02-180</b></p> <p><b>Adolfo E. Miralles, FAIA</b>  <b>West Altadena Project Area</b>  <b>Committee</b>  <b>Dated July 25, 2002</b>  <b>Our File Number: I-02-182</b></p> <p><b>Drusilla van Hengel</b>  <b>City of Santa Barbara Public</b>  <b>Works Department</b>  <b>Dated July 25, 2002</b>  <b>Our File Number: A-02-183</b></p> <p><b>Lisa A. Grigg</b>  <b>Tahoe City Public Utility District</b>  <b>Dated July 29, 2002</b>  <b>Our File Nubmer: I-02-184</b></p> <p><b>Thomas R. Egan</b>  <b>City of Costa Mesa</b>  <b>Dated July 29, 2002</b>  <b>Our File Number: I-02-194</b></p> <p><b>Howard Laks, AIA</b>  <b>City of Santa Monica</b>  <b>Dated July 29, 2002</b>  <b>Our File Number: A-02-195</b></p>	<p>A council member owns residential property within 500 feet of a proposed project. He may participate in the specific plan decisions regarding the project if, in fact, there will be no financial effect on his residential property.</p> <p>The Act does not prohibit a public official from holding a position on the same board on which his spouse serves.</p> <p>A legislator may have a conflict of interest in a vote on legislation that will have a foreseeable and material financial effect on his source of income. However, if the effect will be substantially the same as the effect on the public generally, the legislator may vote despite the conflict of interest.</p> <p>An architect and member of a project area committee may prepare and submit drawings or submissions of an architectural nature on behalf of the developer. However, the public official's contact with agency staff is limited to responding to staff questions, obtaining clarification of staff requests, and communicating with staff regarding the movement of submissions through the approval process. The public official may not appear before his own committee in representing a client's interests.</p> <p>A public official who owns residential property within an area designated for a pilot program may not participate in decisions regarding the pilot program.</p> <p>A member of the board of directors of a public utility district may vote on a new policy that would provide the same health insurance benefits to employees of the district involved in domestic partnerships, which are already available to other employees with spouses, because the decisions will not affect the official's personal finances beyond the salary and benefits the official receives from his or her governmental agency.</p> <p>Nothing in the Act prohibits the requestor from running for or holding office in the same city for which his wife is a planning commissioner.</p> <p>The second step of the eight-step conflict-of-interest analysis is the focus of this letter. Specifically, the discussion concerns whether a member of an architectural review board, also a private architect, is allowed to discuss a client's project with city planning staff and appear before the planning commission, the landmarks commission or the city council. The architect is allowed to present and discuss so long as: 1) each agency is not appointed by or subject to the budgetary control of the public official's agency, and 2) the public official does not purport to act in an official capacity as an architectural review board member.</p>
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## **Honoraria**

**Robert J. Spane**  
**Port of San Diego**  
**Dated July 23, 2002**  
**Our File Number: A-02-094**

A port commissioner under contract with a university to teach in its program could accept payment for his services, which were provided in connection with the practice of a bona fide business, trade or profession, i.e. teaching, which is an exception to the honoraria ban. However, speaking engagements for organizations other than the university would not meet this exception and those payments would be prohibited honoraria.

## **Revolving Door**

**Steven K. Chan**  
**Board of Equalization**  
**Dated July 23, 2002**  
**Our File Number: I-02-084**

The revolving door provisions of the Act and how they apply to a supervising tax auditor at the Board of Equalization are addressed in this letter. Under the permanent ban, the auditor would be prohibited from aiding, advising, representing or otherwise assisting a taxpayer regarding any tax audits or other matters in which he participated or supervised as a state employee. However, the auditor would be allowed to represent the same taxpayer on a different audit with the Board of Equalization, or any other proceeding in which he was not involved. The one-year ban does not regulate tax audits.

**Barbara Brandes**  
**CA Department of Education**  
**Dated July 11, 2002**  
**Our File Number: I-02-134**

Post-employment restrictions of the Act apply to a California Department of Education designated employee contemplating post state employment with a non-profit service organization which will contract with local educational agencies receiving state funding. The employee may not make, participate in making or use his/her official position to influence governmental decisions directly relating to or having a reasonably foreseeable material financial effect upon any party with whom the employee is negotiating prospective employment. The conflict-of-interest provisions also apply.

**Nyle Baker**  
**Prison Industry Association**  
**Dated July 11, 2002**  
**Our File Number: A-02-151**

A former Prison Industries Authority ("PIA") manager is given advice that a permanent ban under the Act's post-employment restrictions prohibits him from advising his new employer or appearing/communicating on the new employer's behalf before the Prison Industry Authority regarding a contract in which he participated as a PIA employee. The one-year ban prohibits appearing or communicating with the PIA, but he may advise his new employer on a new contract with the PIA in which he did not participate as a state employee. The one-year ban does not prohibit communication or appearances during the one-year period for the purpose of implementing, administering or fulfilling an existing contract not subject to the permanent ban.

## **SEI**

**Howard D. Coleman**  
**L.A. Transportation Commission**  
**Dated July 8, 2002**  
**Our File Number: A-02-121**

The requirement that a public official disclose on his statement of economic interests certain investments held in a structured account is discussed. The letter concludes that while there are similarities between a structured account and a mutual fund, the particular stock holdings of the former must be disclosed given that the exception for mutual fund holdings is exclusive to mutual funds.

<p><b>Teresa Vig Rein</b>  <b>Business and Workforce Alliance</b>  <b>of Stanislaus County</b>  <b>Dated July 10, 2002</b>  <b>Our File Number: A-02-124</b></p>	<p>Members of the Business and Workforce Alliance of Stanislaus County, a workforce investment board, are public officials, subject to the Act's disclosure and conflict-of-interest rules.</p>
<p align="center"><b>Small Contributor Committee/Prop 34</b></p>	
<p><b>Andrew Cassidy</b>  <b>Cassidy for State Assembly</b>  <b>Dated July 10, 2002</b>  <b>Our File Number: I-01-296</b></p>	<p>A candidate for state elective office may refund his or her own contributions so long as a combined loan repayment and refund does not exceed \$100,000. The letter analyzes section 85319 in the context of the "personal use" laws.</p>
<p align="center"><b>§ 84308</b></p>	
<p><b>Fazle Rab Quadri</b>  <b>Mojave Desert Air Quality</b>  <b>Management District Board</b>  <b>Dated July 1, 2002</b>  <b>Our File Number: A-02-096</b></p>	<p>The Mojave Municipal Air Quality District Board is to vote on amendments to Rule 1161. Several board members are recipients of campaign contributions from several companies financially affected by the amendments. The board was advised that due to the unique inter-relationships between Rule 1161 and the operating permits for plants subject to the rule, and in light of the specific facts affecting the present amendments to the rule, the proceedings to amend Rule 1161 are construed as proceedings involving a license, permit or other entitlement for use for purposes of section 84308. Board members having received the contributions are barred from voting on the Rule 1161 amendments.</p>